



POLICE DEPARTMENT

November 19, 2008

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Gary Aaronson
Tax Registry No. 927822
107 Precinct
Disciplinary Case No. 82180/06

The above-named member of the Department appeared before me on August 5, 2008, charged with the following:

1. Said Police Officer Gary Aaronson, while assigned to the 107 Precinct, while on duty, on or about February 23, 2006, failed and neglected to render police services after a female civilian informed him that she had received a call from her son in a local high school informing her that he was being accosted by an individual with a knife. Police Officer Aaronson told the female that she should return to the precinct later with her son.

P.G. 202-21, Page 1, Paragraph 8 – POLICE OFFICER-DUTIES AND RESPONSIBILITIES

The Department was represented by Eric Hicks, Esq., Department Advocate's Office, and the Respondent was represented by Michael Martinez, Esq.

The Respondent, through his counsel, entered a plea of Not Guilty to the subject charge. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent is found Guilty.

SUMMARY OF EVIDENCE PRESENTED

Introduction

It is not disputed that Yosee Mullokandov ("Yosee") is a Yeshiva student and that on the evening of February 23, 2006, his mother ("Mrs. Mullokandov") entered the 107 Precinct, approached the front desk area and spoke to the Respondent, who was on duty. The subject charge concerns what she told the Respondent about an incident related to her by Yosee.

The Department's Case

The Department called Lieutenant Jason Weitzman as its sole witness.

Lieutenant Jason Weitzman

Lieutenant Weitzman, a 26-year member, testified that on February 23, 2006, he performed a 4:00 p.m. to midnight tour assigned to the 107 Precinct as the third platoon commander. He recalled that at about 8:00 p.m., he was standing in the area of the front desk near the Telephone Switchboard Operator's desk when he heard a woman, who was standing three or four feet away, "crying" and "pleading for help" from the Respondent. He described this woman, who he later learned was Mrs. Mullokandov, as "semi-hysterical." He heard her tell the Respondent, "My son has just been assaulted" or "attacked" or "jumped." He also heard her mention that "there may a knife." He heard

the Respondent tell her to come back to the station house later and to bring her son with her to fill out a report. He then heard Mrs. Mullokandov tell the Respondent, "You don't understand," and she explained that she had been speaking on the phone with her son and that their phone conversation "was just cut off and my son was attacked." She repeated that "there could a knife." The Respondent again told her to come back later with her son when he was available to provide a report.

Lieutenant Weitzman testified that at this point, even though the Respondent had not asked for his assistance, he intervened and asked the Respondent, "What are you doing? Why are you giving this woman this information?" When he received no response from the Respondent, he told him to return to his foot post. Lieutenant Weitzman then briefly interviewed Mrs. Mullokandov and directed two officers who were standing nearby and who were assigned to a sector car, to respond to the school "forthwith" to ascertain whether Yosee had arrived there. He recalled that the responding officers reported that Yosee had safely arrived at school, that they had interviewed Yosee and that they had prepared a complaint report for "attempted robbery" because Yosee told them that boys had accosted him on his way to school and that one had demanded money from him, patted him down and threatened to kill him.

On cross-examination, Lieutenant Weitzman acknowledged that he does not know where Mrs. Mullokandov was when she received the phone call from her son or whether she had called 911. He acknowledged that when he asked Mrs. Mullokandov, "Are you sure there was a knife?" she responded, "I am not sure." He never heard Mrs. Mullokandov tell the Respondent that the boy bothers him on the way to school and this has happened before. He acknowledged that the complaint report was closed shortly

thereafter with no arrests, even though Yosee told the responding officers that one of the boys had harassed him previously.

Lieutenant Weitzman prepared a Command Discipline (CD) against the Respondent for failing to take police action and for being off post. He was confronted with this Command Discipline and he testified that he wrote on the CD what Mrs. Mullokandov had told him. He explained that when he wrote on the CD that Yosee was "currently at school and she received a phone call from him," he did not mean to imply that Mrs. Mullokandov had told him that Yosee was safe at school or that she had stated that Yosee was inside the school building. He testified that he wrote on the CD that the Respondent was off post at the time Mrs. Mullokandov was speaking to him at the front desk. He testified that it was his belief that the off post charge was later "dropped" but he had no knowledge that someone had ascertained that the Respondent had permission to be off his post at that time.

The Respondent's Case

The Respondent testified in his own behalf and he offered into evidence the Complaint Report prepared by the officers who interviewed Yosee and the CD prepared by Lieutenant Weitzman.

The Respondent

The Respondent testified that on February 23, 2006, he performed a "Hot Spot" robbery area overtime detail assigned to a foot post. He recalled that he left his foot post and returned to the 107 Precinct at his pre-assigned meal time. At about 7:50 p.m., he

had finished his meal and was standing near the front desk waiting for a lieutenant who had told him that she would transport him back to his foot post in her car.

A woman, who he later learned was Mrs. Mullokandov, entered the station house and approached him. Lieutenant Weitzman was standing about ten to 15 feet away. Mrs. Mullokandov appeared "upset, mad" and her speech was "hurried," but she was not crying. The Respondent testified that she "seemed a little puffed up, a little angry, like she had a chip on her shoulder something was bothering her." She asked the Respondent if she could ask him questions because "she did not know what to do about a situation." She told him that her son had "previous incidents" where a boy would "take the yarmulke off his head, toss it around like a Frisbee, tease him, call him names, kid stuff." She stated that the boy who was bothering her son had a knife. When he asked her, "How do you know he had a knife? Did your son tell you?" She answered, "No. I just know. I don't know." He asked her, "Where is your son now?" She answered, "At school." He asked her, "Where does he go to school?" She gave him the name and location of the Yeshiva. He asked her, "Does he need medical attention? Does he need the cops over there?" The Respondent testified that she answered, "No," but that "she wanted us to go there and tell this boy to leave her son alone. I told her we can't do that unless we take a report for that." The Respondent asked her to come back to the precinct later and to bring her son with her to fill out a report because "we are not bullies, we don't give warnings."

She never said her son was being attacked or that the boy had tried to rob her son. Police Administrative Aide Mahmood, who was assigned to the 124 Room, was also involved in the conversation. When the Respondent was asked, "What did Lieutenant Weitzman do? When was the first time you noticed his presence there?" He answered,

“He just interrupted the entire thing. He sits there. He was sitting in the desk officer’s chair, 10 to 15 feet away. He leans back and he yells my last name, ‘Aaronson, what is going on there?’” Mrs. Mullokandov “brought up the knife again.” The Respondent tried to explain to Lieutenant Weitzman that he had “already asked her about the knife” and that “the son is fine, the son is okay,” but Lieutenant Weitzman twice ordered him to “stop talking.” The Respondent testified that when he read Lieutenant Weitzman’s allegation in the CD that he had failed to take police action he was offended because “that he accuses me of it is absolutely absurd. It is ridiculous.” When he was asked if he had ever been offered a CD which did not contain the charge that he had also been off-post, he answered, “As far as I know it has been in there the whole entire time.”

On cross-examination, the Respondent acknowledged that he never offered to Mrs. Mullokandov that he would call the school or would call her son. He concluded that, based on what Mrs. Mullokandov had told him, her son was in school and that he was “fine.” She told him that the incident had occurred when her son was “on break” at 7:30 p.m. that night. The Respondent testified that Mrs. Mullokandov never told him that her son was being accosted or that any phone conversation with her son had been disconnected. The Respondent testified that, “I think it is all manufactured.”

The Respondent offered into evidence the Complaint Report prepared by the officers who interviewed Yosee [Respondent’s Exhibit (hereinafter: RX) A]. In the “Weapon” (displayed by perpetrators) section of this Complaint Report the word “None” is entered. The “Narrative” of this Complaint Report reads as follows:

AT T/P/O COMPL. STATES THAT HE WAS WALKING W/B 75 AVENUE, HE WAS APPROACHED BY PERP, WHO WAS IN THE COMPANY OF TWO

UNIDENTIFIED OTHERS. PERP #1 STATED "WHERE IS YOUR MONEY", AND THEN PERP # 1 DID PAT C/V DOWN. C/V STATES HE DID NOT HAVE ANY MONEY ON HIM. PERP # 1 CONTINUED TO THREATEN COMPL. STATING, "I'M GOING TO KILL YOU". CAUSING ANNOYANCE AND ALARM TO C/V. AT THIS TIME, C/V FLED SCENE. NO INJURIES, NO WEAPONS DISPLAYED. C/V ALSO STATES THAT PERP # 1 HARASSED HIM IN THE PAST. DET COLON 107 PDU NOTIFIED, AND INTERVIEWED C/V AT 107 SQUAD, VIEWED PHOTOS NEGATIVE RESULTS.

The Respondent also offered into evidence the Command Discipline prepared by Lieutenant Weitzman (RX B). The "Details of violation" section reads as follows:

1. Complainant entered S.H. and stated to PO Aaronsen that her son was attacked with a knife but that he is currently at school, and she received a phone call from him relating the above. Member complained of advised complainant to come back later possibly when her son finished his night class.
2. PO Aaronson off post at time of incident.

The "Summary of Investigation and Disposition of Complaint" section reads as follows:

TPO SUBJECT MOS DID IN FACT FAIL TO TAKE POLICE ACTION. PO AARONSON WAS REINSTRUCTED.

FINDINGS AND ANALYSIS

It is charged that the Respondent failed and neglected to render police services in that after Mrs. Mullokandov informed him that she had received a call from her son informing her that he was being accosted by an individual with a knife, the Respondent told her that she should return to the precinct later with her son.

The Respondent was assigned to a foot post on February 23, 2006, and Mrs. Mullokandov did not approach him at his post but, rather, while he was inside the station house. The Respondent acknowledged that he was standing near the front desk only because a lieutenant had told him to wait for her there so that she could transport him

back to his foot post. Since he was not assigned to process civilian walk-in complaints and since he had not been directed by a supervisor to interview Mrs. Mullokandov, when she began to describe the telephone call she had received from her son he could have properly told her that he was not the person she needed to speak to. However, once he took it upon himself to question her about what her son had told her and then to direct her as to what she should do, he was obligated to handle her complaint in a proper manner. The Respondent's testimony that Mrs. Mullokandov "seemed a little puffed up, a little angry, like she had a chip on her shoulder, something was bothering her," reveals that the Respondent developed an immediate dislike for Mrs. Mullokandov within moments of meeting her for the first time. I find that his negative attitude toward her affected the manner in which he decided to deal with the substance of her complaint.

The Respondent asserted that Mrs. Mullokandov only related past incidents to him regarding her son and that, as a result, his direction to her that she return to the station house later accompanied by her son was proper and did not constitute a failure to render police services. Thus, this charge hinges upon what information Mrs. Mullokandov related to the Respondent regarding her son.

Lieutenant Weitzman specifically recalled that he heard Mrs. Mullokandov tell the Respondent that her son had just been "jumped" or "assaulted" by other boys and that she mentioned "a knife." I find it significant that the Respondent testified that Mrs. Mullokandov twice mentioned a knife. The Respondent testified that Mrs. Mullokandov told him that she "just knew" that one of the boys had a knife. This testimony not only corroborates Lieutenant Weitzman's testimony that Mrs. Mullokandov mentioned a

knife, the fact that Mrs. Mullokandov mentioned a weapon should have alerted the Respondent that Mrs. Mullokandov's son might be the victim of more than just teasing.

The Respondent asserted that he also based his decision to tell Mrs. Mullokandov that she should return to the precinct later along with her son because she entered the precinct at 7:50 p.m., 20 minutes after the time that her son had told her the incident had occurred (7:30 p.m.). Even if I credit the Respondent's timeline, the fact that Mrs. Mullokandov told him that she suspected that the boy might possibly have a knife should have alerted the Respondent to the possibility that an armed perpetrator might still be in the vicinity of the school Yosee attended. Although the responding officers who interviewed Yosee reported that the boy who threatened to kill him displayed no weapon (RX A), the Respondent was obligated to initiate a police response appropriate to the scenario described to him by Mrs. Mullokandov since the Respondent had no knowledge of what had occurred other than what she told him.

Yosee told the responding officers that at 7:55 p.m. that night a boy had demanded money, had run his hands down his body, and had threatened to kill him (RX A). Yosee's description of the incident lends credence to Lieutenant Weitzman's testimony that he heard Mrs. Mullokandov tell the Respondent that her son had just been "jumped" or "assaulted" and tends to refute the Respondent's claim that Mrs. Mullokandov only told him that her son had been subjected to some minor "bothering," teasing and other "kid stuff."

The Respondent offered no motive for why Lieutenant Weitzman would, as the Respondent alleges, "manufacture" what Mrs. Mullokandov said or why Lieutenant Weitzman would write on a CD that the Respondent had failed to take police action. That

the Respondent has nothing but contempt for Lieutenant Weitzman is reflected by the Respondent's description that "he just interrupted the entire thing. He sits there...He leans back and he yells my last name, 'Aaronson, what is going on there?'" Moreover, the mere fact that Lieutenant Weitzman mistakenly concluded that the Respondent was off post without permission does not serve to negate Lieutenant Weitzman's testimony as to what he heard Mrs. Mullokandov tell the Respondent.

Finally, the Complaint Report in evidence (RX A) supports Lieutenant Weitzman's version of what Mrs. Mullokandov reported more than it does the Respondent's version of what she said.

The Respondent is found Guilty.

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974).

The Respondent was appointed to the Department on July 2, 2001. Information from his personnel folder that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

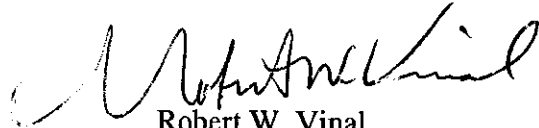
The Respondent has been found guilty of having failed and neglected to render police services in that after a civilian complainant told him that she had received a call from her son informing her that he was being accosted by an individual with a knife, the Respondent told her that she should return to the precinct later with her son.

In formulating a penalty, I have taken into consideration the fact that the Respondent's failure to render police services did not result in any adverse consequences

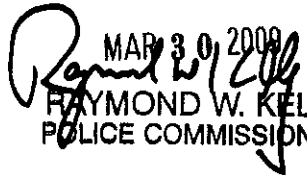
for the complainant's son. I have taken into consideration the fact that the Respondent has no prior formal disciplinary record.

It is recommended that the Respondent's penalty consist of the forfeiture of ten vacation days.

Respectfully submitted,


Robert W. Vinal
Assistant Deputy Commissioner - Trials

APPROVED


MAR 30 2009
RAYMOND W. KELLY
POLICE COMMISSIONER